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REMARKS

NOV 08 2007

In response to the requirement for restriction, applicant has cancelled claims 50-53, rendering the requirement moot.

Regarding claims 41-49 it is respectfully submitted that there is no fair suggestion in the art of record of combining a flexible frameless eye patch with an attention getting message or device to invite social interaction. The new and beneficial function and results of this combination include enhancing social interaction during vigorous activity such as dancing or swimming in particular. In contrast with conventional eyeglass frames, the patch will not be dislodged during such vigorous activities and is inexpensive to make due to its simplicity. Also, if an old outdated previously prescribed corrective lens is affixed to the outer adhesive layer in the preferred method (claims 43, 44), persons who would not otherwise wear their conventional eyeglasses during dancing or swimming in particular would have enhanced eyesight. An additional new and beneficial use is thus made of an old corrective lens that would otherwise be discarded. It is respectfully submitted that the subject matter of this paragraph constitutes new and beneficial results and functions not suggested by Mack 5764338 or Bleau 6984037. Mack with it's eyeglass frames, in contrast with applicants frameless mask enabling mounting an optical element thereon, would be impractical for vigorous social activity such as dancing or swimming. The tiny logo 50 at the corner of the Bleau eyeglass frame would not constitute the attention getting message of paragraph (b) of claim 41.

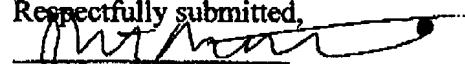
Please recall: "It is error to reconstruct the claimed invention from the prior art by using the patentee's claim as a blueprint. When prior art references require selective combination to render obvious a subsequent invention, there must be some reason for the combination other than hindsight obtained from the invention itself. It is critical to understand the particular results achieved by the new combination (emphasis supplied)", Interconnect Planning Corporation v. Feil, 227 USPO 543 (Federal Circuit 1985)."

These particular results indicate the value of the inventor's contribution to the art, that of course is the major goal of the patent system.

Claim 54 has been added to slightly broaden claim 49 as it may be possible, although not preferred, to use other fasteners such as an elastic strap about the person's head to firmly hold the mask to the face during vigorous activity, and a second fastening device other than an adhesive layer, could be employed to hold the optical element in place over the aperture, although an adhesive layer is greatly preferred; see claim 55.

Should the examiner still deem the application not in condition for allowance, the examiner is respectfully requested to make any suggestions in a telephonic interview or otherwise that may further advance prosecution in accordance with the mandate of MPEP 707.07 (j); page 700-101 8th Ed.: "When an application discloses patentable subject matter and it is apparent from the claims and applicant's arguments that the claims are intended to be directed to such patentable subject matter, ...the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and where possible, should offer a definite suggestion for correction." This should in fairness be emphasized after an RCE has been filed as in this application

Respectfully submitted,


Robert L. Nathans
Registration # 19,558.
978-667-3060; robnathans@aol.com